IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.5212/07
Ravindra Ojha Vs. Yashwant Singh & Ors.

4.10.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri S.K. Singodiya for petitioner.
Shri J.P. Goyal for respondent.

The petitioner has challenged the order dated 16.4.2007 passed by the learned Additional District Judge No.4, Kota whereby that Court has reversed the injunction order passed in his favour on 13.2.2006.

The trial court while declining to pass any injunction in favour of the plaintiff in so far as the question of possession was concerned, granted a limited nature of injunction on the basis of material and evidence on record that

the defendant shall remove the lock from the temple of Goreshwar Mahadev situated on the disputed land and shall not prevent the plaintiff from offering prayer in that temple. The Appellate Court reversed that order which is challenged in this present writ petition.

I have heard the learned counsel for the parties and perused the material on record.

Learned counsel for the petitioner argued that the learned First Appellate Court was not justified in reversing the very considered injunction order passed by the trial court. The injunction order was itself in the limited nature of direction to the respondents to remove the lock from the

temple and not to restrain the plaintiff-petitioner to offer prayers in the temple.

Learned counsel for the petitioner has invited my attention to the letter dated 4.6.04 written by Assistant Commissioner, Devsthan Department, Kota to show that the plaintiff was appointed as Pujari of the aforesaid temple and also the letter dated 16.4.04 written by Assistant Commissioner, Devsthan Department, Kota to SHO, Police Station, Mahavir Nagar Kota in which it was stated that Goreshwar Manadev temple is on the list of Government aided temples, which was receiving annual grants and that proposals have been sent for making payment of such grant to the plaintiff-

petitioner. The learned counsel therefore argued that the First Appellate Court has not appreciated the material on record in its true and correct perspective.

On the other hand Shri J.P. Goyal, the learned counsel for the defendant respondents argued that the property in dispute has been held to be private property of the defendant even by the trial court. On the question of its possession also finding has been recorded in favour of the defendant. Learned counsel for the respondent disputed the correctness of the document / letters issued by the Devsthan Department and argued that this cannot be accepted as a proof of the fact that the temple in question was under Devsthan Department and the plaintiff was its Pujari. It was

argued that when on the question of possession, finding has been recorded in favour of the defendant, there is no reason for the trial court to have issued aforesaid injunction order.

Having heard the learned counsel for the parties and perused the material on record, I find that the injunction order as originally passed by the trial court was based on the material on record, especially the documentary evidence procured from the Devsthan Department. All that the trial court directed was that the plaintiff would be at liberty to offer prayers in the temple and the defendants shall not prevent his entry to that temple. The First Appellate Court has indeed not appreciated the material evidence on record in its true

perspective including the fact that temple was on the aided list of the Government and was receiving annual grants and that the plaintiff was recognized as its Pujari. The findings recorded by the First Appellate Court on the question of prima facie case therefore cannot be upheld in law.

The impugned order is therefore set aside with the direction that the learned trial court shall process and decide the main suit itself within a period of 18 months from the date certified copy of this order is produced before it.

The writ petition is disposed of accordingly.

(Mohammad Rafiq),J.

Rs/-